

## **Voting Residency Guidelines for UOCAVA Citizens**

During the course of an election year, the FVAP receives numerous queries from citizens voting under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) regarding their state of residence for voting purposes. While the issue of voting residency can be complex, the following are general guidelines for helping members of the Uniformed Services, the merchant marine and their family members and all overseas civilian citizens determine their state of legal residence for voting purposes.

### **Part I. Uniformed Service Members and Eligible Dependents**

One must have or have had physical presence in the state and simultaneously the intent to remain or make the state his/her home or domicile.

One may only have one legal residence at a time, but may change residency each time he or she is transferred to a new location. One must make a conscious decision to change residency; it cannot be done accidentally. There must be certain specific actions which may be interpreted as conscious decisions, e.g., registering to vote, registering a car, qualifying for in-state tuition, obtaining a drivers license, etc.

Once residence is changed, a person may not revert to the previous residence without re-establishing new physical presence and intent to remain or return.

**Keep in mind that you may not arbitrarily choose which state to declare as your legal voting residence without meeting the states residency requirement.**

"Home of Record" should not be confused with legal residence. "Home of Record" is the address a military member had upon entry into the Service. It does not change. "Home of Record" and legal residence may be the same address, and usually are when a person enters military service. It can remain so even though the person or his/her relatives no longer live at that location, as long as the military member has not established a legal residence elsewhere after entering on active duty. If a military member changes legal residence after entering on active duty, he/she may not revert to claiming the "Home of Record" as legal residence without re-establishing physical presence and intent to remain in or return to that state.

Family members of active duty military personnel may each have a different legal residence. **A spouse does not automatically assume the legal residence of the active duty member upon marriage.**

The spouse must meet the physical presence and intent to remain or return criteria. Minors typically assume the legal residence of either parent when they become 18. They also have the option of establishing their own legal residence, which can be different from either parent, assuming they have met the guidelines of physical presence and intent to remain or return.

### **Part II. Overseas Civilian Citizens**

Your "legal state of residence" for voting purposes is the state you last resided immediately prior to your departure from the U.S. This right extends to overseas citizens even though they may no longer own property or have other ties to their last state of residence and their intent to return to that state may be uncertain.

When completing the Federal Post Card Application (FPCA), always consult the appropriate state section in Chapter 3 of the *Guide* and complete the residence section of the form by entering the complete street address of your last residence in that state, including your street or rural route and number. If using a rural route number, include specific information on the

location of residence. Your right to vote in your state and determination of voting precinct depend on your physical residence while you were within that state.

Keep in mind that exercising your right to vote in elections *for Federal offices only* does not affect the determination of residence or domicile for purposes of any tax imposed under Federal, state or local law. Voting in an election for *Federal office only* may not be used as the sole basis to determine residency for the purposes of imposing state and local taxes. If you claim a particular state as your residence and have other ties with that state *in addition to voting*, then you may be liable for state and local taxation, depending upon that particular state law. Visit the IRS website at [www.irs.gov](http://www.irs.gov) for information on probable tax obligations.

Citizens who have never resided in the U.S. are not entitled to vote under current law in many states. Although they are subject to all other requirements of citizenship, they are not eligible to vote. The FVAP continues to recommend that State legislatures adopt laws that allow these citizens to vote where either parent is currently eligible to vote under UOCAVA. The following states have enacted this provision: Arizona, Delaware, Georgia, Hawaii, Iowa, Massachusetts, Michigan, Montana, Nebraska, New York, North Dakota, Oklahoma, Oregon, Rhode Island, Tennessee, West Virginia, and Wisconsin. Consult Chapter 3 of the *Guide* for state specific requirements.

Voting Assistance Officers at Embassies/Consulates will assist overseas U.S. citizens in obtaining and completing FPCA requests for registration and absentee ballot; witnessing or notarizing FPCA forms (if required), and providing other absentee voting information as needed. Embassy/ Consulate locations serve also as postage-free mailing points for FPCA forms and other election materials to be mailed back to your local voting jurisdiction in the U.S. where absentee registration and ballot requests are processed. Organizations of American citizens overseas such as Democrats Abroad, Republicans Abroad, etc. and overseas corporations also have voting materials to assist citizens in requesting registration and ballot.

The above are general guidelines for determining your legal residency for voting purposes. Consult your legal counsel for specific questions.

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